

JAP:KDE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

COMPLAINT

- against -

(T. 18, U.S.C. § 2252(a)(2))

EDWIN CORTEZ,

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

THOMAS THOMPSON, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), duly appointed according to law and acting as such.

On or about and between October ^{25th} 24, 2014, and November 25, 2014, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant EDWIN CORTEZ did knowingly receive and distribute any visual depiction, the production of such visual depiction having involved the use of one or more minors engaging in sexually explicit conduct and such visual depiction was of such conduct, using any means or facility of interstate or foreign commerce or that has been mailed, or has been shipped or transported in or affecting interstate or foreign commerce or which contains materials which have been mailed or so shipped or transported, by any means including by computer.

(Title 18, United States Code, Section 2252(a)(2)).

The source of your deponent's information and the grounds for his belief are as follows:¹

1. I have been a Special Agent of the FBI since December 2004, and am currently assigned to the New York Office. Since September 2007, I have been assigned to a Crimes Against Children squad. I have been assigned to investigate violations of criminal law relating to the sexual exploitation of children. I have gained expertise in this area through training in classes and daily work related to conducting these types of investigations. As part of my responsibilities, I have been involved in the investigation of numerous child pornography cases and have reviewed thousands of photographs depicting children (less than eighteen years of age) being sexually exploited by adults. Through my experience in these investigations, I have become familiar with methods of determining whether a child is a minor. I am also a member of the Eastern District of New York Project Safe Childhood Task Force.

2. I am familiar with the information contained in this affidavit based on my own personal participation in the investigation, my review of documents, my training and experience, and discussions I have had with other law enforcement personnel concerning the creation, distribution and proliferation of child pornography. Additionally, statements attributable to individuals herein are set forth in sum and substance and in part.

3. Peer to peer file sharing ("P2P") is a method of communication available to Internet users through the use of special software. Computers linked together through the Internet using this software form a network that allows for the sharing of digital files between users on that network. A user first obtains the P2P software, which can be downloaded from

¹ Because the purpose of this Complaint is to state only probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

the Internet. In general, P2P software allows the user to set up files on a computer to be shared with others running compatible P2P software. A user obtains files by opening the P2P software on the user's computer, and conducting searches for files that are currently being shared on another user's computer.

4. One aspect of P2P file sharing is that multiple files may be downloaded in parallel, which permits downloading more than one file at a time.

5. A P2P file transfer is assisted by reference to an IP address. This address, expressed as four sets of numbers separated by decimal points, is unique to a particular computer during an online session. The IP address provides a unique location making it possible for data to be transferred between computers.

6. Third party software ("Network Monitoring Program" or "Investigative Software") is available to identify the IP address of the P2P computer sending the file. Such software monitors and logs Internet and local network traffic.

7. One investigative method employed in this investigation involves the use of an Investigative Software ("IS"), which is currently used in P2P file sharing investigations to directly download files of child pornography from P2P network users. The IS is designed to "direct connect" to one IP address and browse or download from one specific P2P network user at a time. The IS is a P2P file sharing software similar to other file sharing software used on P2P networks which are free and available to the public.

8. On or about October 25th 2014, an FBI undercover agent ("Undercover Agent") signed into a P2P network. The Undercover Agent memorialized the session by intermittent video capture using a publicly available computer program. Any download activity from the session was monitored via a Network Monitoring Program.

9. Upon signing in to the publicly available P2P file sharing program, the Undercover Agent observed that the user “Chelo12” was online. Chelo12 communicated to the Undercover Agent in a private message, “I like boys 8 to 13” and “videos and if they are latino boys mucvh (sic) better.” Chelo12 also provide the Undercover Agent the password, “chalito1”, to his protected folders. The Undercover Agent then browsed through Chelo12’s shared folders and files; several files had filenames indicative of child pornography.

10. Using the P2P network, the Undercover Agent downloaded six video files from “Chelo12.” Several of these files, which are available for the Court’s review, are described as follows:

- a. **EdwinC VID-Mayo 2014 9yo NEW.3GP** is a video of a prepubescent boy, approximately nine years old, engaging in oral sex with a pubescent male.
- b. **!!!!!!!chu – incredible.mp4** is a video of a nude prepubescent boy, approximately ten years old, engaging in oral sex with an adult male. The boy also masturbates in the video.
- c. **-(sdpa) gay mikael 9 anos cojido profundamente por un adulto(2)(2)(1).avi.downloading** is a video of an adult male, lying on a bed, engaging in anal sex with a nude prepubescent boy, approximately nine years old.
- d. **! 0 aa 5yo JASON & 7yo JOSH(1).2.mpeg** is a video of two nude prepubescent boys, both approximately six years old, masturbating.

11. The Undercover Agent used the Network Monitoring Program to identify the IP address utilized by “Chelo12” as 72.225.246.92. Open source database searches revealed the IP address 72.225.246.92 was registered to Time Warner Cable.

12. Records obtained from Time Warner Cable by administrative subpoena showed that the IP address 72.225.246.92 on October 25, 2014, was subscribed to “EDWIN

CORTEZ,” with a Flushing, New York address (“Flushing Address”). The filename of the downloaded video file described in paragraph 10(a) begins with EDWIN CORTEZ’s first name (Edwin) and the first letter of his last name (C).

13. On November 25, 2014, FBI agents executed a search warrant, issued on November 24, 2014, by the Honorable Lois Bloom, at the defendant EDWIN CORTEZ’s residence, the Flushing Address.

14. The defendant was present when FBI executed the search warrant. Agents showed a copy of the search warrant and items to be seized to the defendant. The agents informed the defendant that they were there to execute the search warrant. Agents advised the defendant of his Miranda rights. He stated that he understood his rights, signed a written Miranda waiver form, and indicated that he wanted to speak to agents without a lawyer present.

15. The defendant subsequently advised agents, in sum and substance and in part, that he lived at the Flushing Address and that he operated the P2P program under the username “Chelo12.” The defendant also admitted that he has traded child pornography under the “Chelo 12” username. Furthermore, the defendant stated that he has been viewing child pornography for over 10 years.

16. FBI agents then placed the defendant under arrest.

17. Among the items seized by FBI agents from the Flushing Address was an external hard drive. A preliminary review of the hard drive revealed the presence of over one hundred files depicting child pornography. Among these files were the two video described in paragraph 10(a) and 10(b) of this Complaint.

WHEREFORE, your deponent respectfully requests that the defendant EDWIN CORTEZ be dealt with according to law.



Thomas Thompson
Special Agent
Federal Bureau of Investigation

Sworn to before me this
25th day of November, 2014

THE HONORABLE LOIS BLOOM
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK